

STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF NURSING

IN THE MATTER OF THE	:	
SUSPENSION OR THE REVOCATION	:	Administrative Action
OF THE CERTIFICATION OF	:	
	:	
Providence Green	:	
CERTIFICATE NO.26NH08129100	:	ORDER OF TEMPORARY
	:	SUSPENSION OF CERTIFICATION
TO PRACTICE AS A	:	
HOME MAKER-HOME HEALTH AIDE	:	
IN THE STATE OF NEW JERSEY	:	

This matter was opened to the New Jersey State Board of Nursing ("Board") by way of an Order to Show Cause, Notice of Hearing and Notice to File an Answer, filed with the Board by Jeffrey S. Chiesa, Attorney General of New Jersey, Special Deputy Attorney General Pavithra Angara appearing, on February 6, 2013. The Order was supported and accompanied by a Verified Complaint, a supporting brief and Exhibits, and was returnable on February 20, 2013, at 9:30 a.m. Pursuant to N.J.S.A. 45:1-22 the Attorney General sought temporary suspension of the certification of Providence Green ("Respondent") to practice as a Certified Homemaker-Home Health Aide in the State of New Jersey as well as any other restraints deemed necessary by the Board, pending a plenary hearing on the matter. The one count Verified Complaint alleges, among other things, that on the morning of January 4, 2013, after being told that her assigned patient had dementia,

Respondent stated to her employer "her brain condition and the patient's brain condition would not work together." Later that same day, Respondent was involved in an incident involving the staff of the Board of Nursing during which she was observed "as quickly walking back and forth, swinging her arms, yelling and shaking her finger" at a staff member. She told Board staff that Bright Star had offered her a live-in assignment where she would be required to sleep on an air mattress in the patient's basement and that she would probably get up in the middle of the night and kill the patient. She also stated that she had just come from court where her children had been taken away and that she was a schizophrenic. Prior to leaving the office, respondent told staff that unless one of the staff killed her she would be back and she would remember their faces. The Complaint further alleges that Respondent's employment with Bright Star at the Emerson location a home health care company) was terminated on October 8, 2012 as a result of her abandonment of a scheduled shift, thereby leaving the patient without appropriate coverage.

Respondent did not submit an Answer or other written response to the Order to Show Cause or Verified Complaint. Nor did she telephone or appear at the Board office seeking an adjournment or otherwise responding to the Order to Show Cause.

A hearing was held before a committee of the Board on February 20, 2013.¹ Special Deputy Attorney General Pavithra Angara appeared on behalf of the complainant Attorney General. After waiting thirty minutes beyond the scheduled time for the hearing, and representing that neither Respondent nor counsel for Respondent were in the hearing room or the lobby, and that no one had called the Attorney General or responded to the Order to Show Cause and Verified Complaint, the Attorney General made a motion to proceed with the hearing to temporarily suspend Respondent's certification as adequate efforts at service had been made. She supported her application with the following documents introduced into evidence:

P-1 Certification of Due Diligence of Investigator Kim, dated February 19, 2013

P-2 Certification of Due Diligence of Investigator Kim, dated February 13, 2013

P-2 entered into evidence certifies that, on February 8, 2013, Investigator Kim left a copy of the Order to Show Cause, and supporting documents at an address on South 8th Street. The South 8th street address is one of Respondent's prior addresses

¹ At the February 4, 2013 Board meeting, the Board authorized a committee of the Board to conduct an emergent temporary suspension hearing based upon the Attorney General's Complaint and issuing an Order having immediate effect, which the full Board may then ratify, modify or vacate at the next meeting at which such review can be scheduled.

of record, is the address on the driver's license she provided to Bright Star - Emerson, and is the last known address available from the United States Postal Service.

P-1 entered into evidence certifies that service was made on February 15, 2013 of the Order to Show Cause and supporting documents by leaving a copy at Respondent's address of record with the Board, which is _____, Newark, New Jersey. This Certification explains that because Respondent was found not to be living at this address, Investigator Kim performed a postal search and was redirected to an address for Respondent in Montclair. When Investigator Kim visited the Montclair address, the current tenant informed her that Respondent had moved out more than two years ago. Investigator Kim performed another postal search on the Montclair address and was redirected to the address _____ in Newark where the Order to Show Cause was previously served on February 8, 2013.

Upon motion and unanimous vote, the Committee determined that the State had met its burden of proof and demonstrated that service was made at respondent's address of record and that service was attempted at several other locations. It is not incumbent upon the State to ferret out Respondent's location. Respondent has a responsibility to advise the Board of a street

address at which she can receive service (N.J.A.C. 13:37-5.7, N.J.A.C. 13:45C-1.3(a)7). By providing notice at multiple locations, the State went beyond its basic obligation to provide notice. The Committee found efforts at service sufficient to place Respondent on notice and moved forward with the hearing in Respondent's absence.

SUMMARY OF EVIDENCE PRESENTED

In opening statements and in a brief submitted to the Board, the Attorney General argued the actions of Respondent render her incapable, for medical or other good cause, of discharging the functions of a licensee in a manner consistent with the public's health, safety and welfare and that her continued practice under her certification would place the public in clear and imminent danger.

The Attorney General supported her application for the temporary suspension of Respondent's certification with the following documents introduced into evidence:

P-3 Certification of Soledad Matos, dated January 16, 2013

P-4 Certification of Simone Klausner, dated January 16,
2013

P-5 Certification of Deborah Toure, undated

P-6 Certified true copy of personnel records for Providence

Green from Bright Star-Emerson dated January 8, 2013

P-7 Certification of Susanne Mueller, dated January 8, 2013

P-8 Certification of Ana Cecilia Acevedo, dated January 8, 2013

P-3, P-4 and P-5 are certifications from Board staff and describe the exchange that took place between Respondent and Ms. Matos when Respondent came to the Board of Nursing offices on January 4, 2013.

P-6 is the certified true copy of Respondent's personnel record at Bright Star- Emerson and includes information regarding the circumstances of Respondent's termination of employment from that agency in October 2012.

P-7 and P-8 are certifications from employees of Bright Star-Cedar Knolls and provide details of an incident that led to Respondent's appearance at the Board of Nursing offices on January 4, 2013 to request that a complaint be filed against Bright Star.

In closing arguments, DAG Angara urged the Respondent's conduct displays such a lack of judgment and professionalism that she cannot be trusted to care for homebound patients. The DAG requested that Respondent's certification be temporarily suspended and that, as a condition for any continued, reinstated

or renewed licensure Respondent be required to submit to medical or diagnostic testing and psychological evaluation as may be required.

DISCUSSION

The Attorney General's application is supported by certifications of Board of Nursing staff and Bright Star employees along with certified true copies of personnel records for Respondent.

P-7 and P-8 in evidence describe events that occurred on the morning of January 4, 2013, after Respondent accepted a patient assignment from her employer Bright Star- Cedar Knolls. When a Bright Star employee arrived to pick Respondent up at the hotel she was staying at and transport her to the assignment, Respondent informed the employee that she was "speaking to the mayor of Newark and that (the employee) should come upstairs and wait." (P-8, paragraph 7). After concluding her call, before arriving at the patient home for an orientation just prior to the scheduled shift, Respondent relayed doubts about the assignment and asked her employer what would happen if she did not take the case. (P-8, paragraph 4). When it was explained to her that this would constitute abandonment of her shift, Respondent began to yell at her employer, but still agreed to go to the patient home.

(P-7, paragraph 4; P-8, paragraph 7). After visiting the home and being told that the patient had dementia, Respondent told her employer that "she was schizophrenic and that she did not believe her brain condition and the client's brain condition would work well together" and that she and the patient would not be a good "match." (P-7, paragraph 10; P-8, paragraph 10). Her employer advised her that she would not be needed as it "would not be a safe situation for the client." (P-7, paragraph 11), and that they would be reporting the incident to the Board of Nursing (P-7, paragraph 12; P-8, paragraph 12). Respondent was then observed to be agitated and speaking to herself and ultimately walked toward her employer and yelled at her in front of the client's home. (P-7, paragraph 12; P-8, paragraph 12). While being driven back to her home, Respondent requested that she be dropped off at the court in Newark so she could finish her conversation with the Mayor about her children. (P-8, paragraph 13).

Certifications of three Board of Nursing staff members (P-3, P-4 and P-5) reflect that, later that same day, Respondent was involved in an incident at the Board. Respondent stated that "Bright Star had offered her a live-in assignment in which she had to sleep in the patient's basement on an air mattress... she

could not sleep on an air mattress because she is sick and that she would probably get up in the middle of the night and kill the patient because she is schizophrenic." (P-3, paragraphs 8 and 9; see also P-5, paragraph 5). Respondent appeared agitated to Board staff, pointed her finger in the face of one staff member and commanded the staff member to file a complaint against her employer Bright Star. She stated that "unless one of (the board staff) killed her, she would be back and she would remember our faces." (P-3, paragraph 11; P-4, paragraph 6; P-5, paragraphs 6 and 7).

Review of P-6 in evidence, Respondent's personnel file from Bright Star-Emerson, reveals that her employment with that agency was terminated on October 8, 2012. Bright Star-Emerson policy required two week notice prior to time away from a live-in assignment. On Saturday September 29th at 3:00pm Respondent requested that she be relieved from duty beginning Monday October 1st because she had personal matters to address and it was important she be home prior to her previously approved leave scheduled to begin Friday October 5th. Bright Star-Emerson immediately notified Respondent that coverage was available effective Tuesday October 2nd. Respondent accepted that she would need to work on Monday. Later Saturday night, Respondent

called Bright Star-Emerson again to request coverage for Monday, this time because her P.O. Box in Newark was about to expire and she needed to go to the post office to collect her documents. By 10:00 AM on Sunday Bright Star-Emerson and Respondent agreed that someone from the office would pick up the P.O. Box key from Respondent on Monday, get the contents of the box and return it to Respondent at her live-in assignment. Early Monday afternoon, Respondent called off this effort and said "Do I have to say that I am sick to be able to leave here?" (P-6, October 6, 2012 letter to Respondent). Approximately six hours later, the client's family called Bright Star-Emerson to inform them that Respondent had left after becoming ill. Respondent did not call the office. (P-6, October 6, 2012 letter to Respondent).

FINDINGS

The evidence presented at this stage of the proceeding by the Attorney General in support of the application for the temporary suspension of respondent's license is compelling, including certifications of Board staff and Bright Star employees together with Respondent's personnel record, and unquestionably forms a predicate upon which to support a finding that respondent's continued practice as a Certified Homemaker-Home Health Aide would pose a clear and imminent danger to the public

health, safety and welfare.

The Committee finds that Respondent's conduct demonstrates such a lack of sound judgment and raises such serious questions regarding her mental state that the foreseeable consequences are not confined to the happening of the individual incidents set forth in the Complaint. Rather, this conduct, taken together with Respondent's admission of a serious medical condition, Schizophrenia, appears to be indicative of a more general and fundamental incapacity presenting undue risk to the public including: Respondent's impaired judgment in abandoning her shift, despite repeated efforts of her employer to accommodate her shifting demands for relief, and thereby leaving a patient without appropriate coverage in a live-in assignment; erratic and threatening behavior and poor judgment in her interactions with Board staff and Bright Star employees; and statements that due to her schizophrenia she might wake in the middle of the night and kill the patient if she was asked to sleep on an air mattress during a live-in assignment.

Certified homemaker-home health aides provide care to some of the most vulnerable members of our society - the infirm elderly and handicapped of all ages. They have unfettered access to the homes, personal possessions, and other valuable belongings

of their patients. It is imperative that certified homemaker-home health aides are able to control their behavior and exercise good judgment. Given Respondent's repeated instances of patient abandonment, acknowledgement of possible harm she might visit upon patients, and Respondent's threatening behavior to her employers and Board staff, Respondent has demonstrated inability to conform with these essential elements necessary to safely practice. Therefore, no remedial measure less than the full temporary suspension of certification will suffice to protect the public interest.

The Committee finds that the Attorney General has palpably demonstrated that Ms. Green's continued practice poses a clear and imminent danger to the public.

ACCORDINGLY, it is on this 25th day of February 2013

**ORDERED, as announced orally on the record and effective
February 20, 2013:**

1. The certification of Providence Green, is hereby temporarily suspended pending final adjudication of the allegations of the Verified Complaint, including Board review of the results of any plenary hearing at the Office of Administrative Law.

2. Respondent shall immediately cease and desist engaging

in practice as a certified homemaker-home health aide.

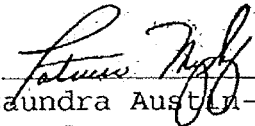
3. Prior to Board consideration of any petition for reinstatement, Respondent shall be required to submit to an evaluation by a Board approved mental health practitioner who will be provided with the record in this matter and whose written report shall be provided to the Board and who shall recommend that the Respondent's unrestricted practice will not pose a risk to the public health safety or welfare.

4. Upon service of the written order in this matter, Respondent shall have 10 business days to request the Board to re-open this matter upon a showing that the Order to Show Cause was not served at her address of record with the Board.

5. This Order is subject to adoption, modification or rejection by the full Board of Nursing after consideration of the written record at it's next meeting, currently scheduled for March 1, 2013.

NEW JERSEY STATE BOARD OF NURSING

By:

 P.D., APN, FAAN
Sandra Austin-Benn, MSN, RN, APN
Board Secretary/Treasurer